

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-053881

08/18/2011

HONORABLE DOUGLAS GERLACH

CLERK OF THE COURT

C. Vigil

Deputy

IN RE THE MATTER OF
NICHOLAS COLAGROSSI

NICHOLAS COLAGROSSI
6900 E PRINCESS DR # 1255
PHOENIX AZ 85054

AND

LISA SIRIZZOTTI

LISA SIRIZZOTTI
705 W QUEEN CREEK # 2092
CHANDLER AZ 85248

AZ DEPARTMENT OF VITAL
RECORDS
FINANCIAL SERVICES-CCC

PATERNITY JUDGMENT

A hearing was held in this matter August 16, 2011. This Court had previously ordered Petitioner/Father Nicholas Colagrossi to submit a detailed written Response to Respondent/Mother Lisa Sirizzotti's Motion titled Custody, Support and Visitation, and Father did not do so. [See Minute Entry (6/20/11) at 1]. Father was also ordered to supply a written statement for a Resolution Management Conference to be held on August 16, and he did not. [Id.] Father was further advised that if he failed to appear for that Conference, the Court could proceed by default, and Father did not appear. Finally, the testimony presented at the hearing established that the Court order referenced above was mailed to the address at which Father resides. The Court, therefore, proceeded in Father's absence.

Based on the evidence presented, the Court makes the following rulings.

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Paternity.

THE COURT FINDS that based on the testimony and evidence presented, Petitioner/Father Nicholas Colagrossi is the natural father of the following minor child: Jaiden Sirizzotti (born 7/2/2005).

IT IS ORDERED declaring that Nicholas Colagrossi is the natural father of the Jaiden Sirizzotti (born 7/2/2005).

IT IS FURTHER ORDERED that the parties shall take all necessary steps to have the birth certificates of the minor child amended in accordance with this order if the correct information does not now appear on the original certificate. Information for amendment of an Arizona birth certificate may be obtained from the Office of Vital Records, Department of Health Services, 1818 W. Adams, Phoenix, Arizona 85007; Phone (602) 364-1300. A certified copy of this minute order may be obtained after ten days of receipt of same, and shall then be provided, together with all other required documents and fees, to the Office of Vital Records, so that the birth certificates can be amended or supplemented as ordered.

IT IS FURTHER ORDERED that each of the parties shall be responsible for paying one-half of the costs associated with changing the children's birth certificates.

Custody and Parenting Time.

Jurisdictional Findings.

The Court finds that Mother and the minor child have resided in Arizona continuously for at least the six months preceding the filing of the petition for paternity. This Court, therefore, has jurisdiction as Arizona is the "home state" of the minor children. *See* A.R.S. § 25-1031.

Parent Education Program.

If either or both parties have not satisfied the domestic relations education provisions of A.R.S. § 25-352, they are ordered to do so within 30 days of the date of this Judgment.

Best Interest Findings: A.R.S. § 25-403.

The best interests of a child is the primary consideration in awarding child custody. *Hays v. Gama*, 205 Ariz. 99, 102, ¶ 18, 67 P.3d 695, 698, ¶ 18 (2003). Section 25-403(A) enumerates

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specific factors for the Court to consider, among other relevant factors, in making a determination about a child's best interests.

The Court has considered each of the factors identified in section 25-403(A). The Court finds that these factors predominate: (i) Mother has been the primary care giver for the child, (ii) no evidence suggests that Father has any desire to co-parent, (iii) Father has a history of alcohol abuse, and (iv) Mother does not wish to deny Father parenting time but has a justifiable concern about his ability to maintain sobriety consistently.

Legal Custody.

The Court finds that it is in the child's best interest to award sole legal custody of the child identified above to Mother.

IT IS ORDERED:

1. Mother is awarded sole legal custody of Jaiden Sirizzotti (born 7/2/2005).
2. The parties are expected to comply with the following Custody Terms:

a. **Parental Access To Records And Information** – Both parents are entitled to have equal access to documents and other information concerning the child's education and physical, mental, moral, and emotional health including medical, school, police, court, and other records directly from the custodian of the records or from the other parent. A parent who does not comply with a reasonable request to provide copies of such records to the other parent shall reimburse the requesting parent for court costs and attorney's fees incurred to force compliance with this requirement. A parent who attempts to restrict the release of documents or information by the custodian, without a court order, is subject to appropriate legal sanctions, such as a fine.

b. **Educational Arrangements** – Both parents have the right to participate in school conferences, events, and activities (including extra-curricular), and the right to consult with teachers and other school personnel.

c. **Medical And Dental Arrangements** – Both parents have the right to authorize emergency medical/dental treatment, if needed, and the right to consult with physicians and other medical practitioners. Both parents shall advise the other parent immediately of any emergency medical/dental care sought for the child, to cooperate on health matters pertaining to the child and to keep one another reasonably informed regarding the status of the child's health. Both parents shall keep each other informed as to names, addresses, and telephone numbers of all medical/dental care practitioners.

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d. **Parental Communication** – It is in the child’s best interests when the parents communicate regularly about their child and treat one another’s opinions, suggestions, and requests with respect. The parents are required to communicate regularly regarding day-to-day and more significant issues that affect the child. The parents shall use e-mail as their primary method for communication because it minimizes disagreements later on about what was and was not said. Both parties shall maintain and regularly review their e-mail accounts. They shall each respond in a timely manner to e-mails received from the other, even if the response is merely to acknowledge the receipt of information and a promise to respond in more detail a short time later. Each should save copies of all e-mails sent and received in some fashion so that copies can be printed later on so that, if there is disagreement in the future about any issue that is the subject of one or more e-mails, each party will have written proof about what was communicated.

e. **Relocation** – Neither parent shall attempt to relocate with the child outside of Maricopa County unless that parent either secures the written consent of the other or obtains a Court order authorizing the move before attempting to relocate.

f. **Mediation or Conciliation Services** – Should Father disagree about any decision that is made for the child that will affect his well-being, he should ask for the assistance of the Court’s Conciliation Services or otherwise ask the Court to appoint a parenting coordinator to assist with resolving any such disagreements. Any motion, petition, memorandum, or other written request that is submitted to the Court in the future regarding child custody, parenting time, or child support that does not show compliance with this requirement will not be considered until the party making the request does comply.

g. **Deviations** – The parents are free to agree to any temporary deviations from the parenting schedule or other terms of this Decree. If they agree to any permanent modification, which they are also free to do, it will not be enforceable unless it is in writing and signed by both parties.

h. **Telephone Access** – Both parents shall have reasonable telephone access to the child. The parent placing the call shall be responsible for long-distance charges, if any. The child shall be given privacy during phone calls, and there shall be no interference with phone access. If the child wishes to talk to a parent by using a speaker phone, that will be allowed with the understanding that the parent with whom the child is then staying shall move to another part of the residence so as to be out of the presence of the child and so that the conversation cannot be heard.

i. **Conduct in Presence of the Child** –

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i-1. Neither parent shall expose the child to any incidents of domestic violence or extreme or hostile conflict or language. Neither parent shall expose the child to derogatory comments about the other parent or the relatives or friends of the other parent. The parents shall neither argue nor insult each other in the presence of the child or allow a third party to do so. Neither parent shall frighten the child by saying things such as the other parent is trying to take her away, the other parent does not love him, want to see him, or is interfering with visits.

i-2. The parents shall not discuss custody, parenting time, or child support issues in the presence of or with the child. The parents shall ensure that the child is not exposed to any discussion about custody disputes or legal proceedings other than to assure the child that the parents are trying to work out appropriate arrangements so that the child can have frequent regular access to both parents.

i-3. The parents shall not question the child about where she wants to live. The parents shall not question the child about the personal life of the other parent. The parents shall not express to the child how angry they are at the other parent, how they doubt the trustworthiness of the other parent, or how hurt or frustrated they are by the actions of the other parent.

i-4. Each parent is restrained from using or permitting others to use the child to convey oral or written messages between households. Communications should take place directly between adult household members, and the child should be protected from involvement in adult issues, such as changes in the parenting time schedule.

i-5. Both parents shall be listed as emergency contacts on any forms that require contact information such as, but not limited to, education, activities, childcare and medical providers.

i-6. During exchanges, the parties shall make every effort to be polite and respectful to each other. Interaction between the parents shall be restricted to the orderly exchange of the child. The parents are not to use the exchanges of the child or other circumstances in which the child is present to share information with one another, make requests of one another, engage in negotiations, or related activities.

i-7. Neither parent shall do or say anything that might tend to alienate the affection of the child for the other parent, nor shall either parent allow any third person to do so.

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i-8. Neither parent shall permit the child to be subjected to corporal punishment of any kind including, but not limited to hitting or striking with an instrument, and/or hitting or striking with a closed fist or open hand. Neither parent shall permit the child to be punished by use of anything that could cause injury, bruising, or significant pain.

i-9. Each parent shall encourage love and respect between the child and the other parent. Neither parent shall disparage the other parent or act in a way to hurt the other parent's relationship with the child.

j. **Decision Making** – When questions that affect the child's well being arise, the parents shall address the issues amicably, in good faith, and in a spirit of cooperation that will result in what is best for the child. That means that each parent shall respect the views of the other and consider them as seriously as that parent would want his or her own views considered. If necessary, the parties should seek the opinions of professionals whose opinions may be relevant, such as teachers or medical professionals.

If, despite their best, good faith efforts, the parties cannot agree, Mother will have the right to make the decision.

Parenting Time.

Given Father's failure to participate in this proceeding and, thus, his failure to express any interest in securing parenting time, and given his past with alcohol-related issues, parenting time will be left to Mother's discretion. If Father wishes to exercise parenting time, he must make arrangements with Mother, who is permitted to impose any conditions or restrictions (such as supervision by a third-party) that she believes in good faith are necessary.

Child Support.

THE COURT FINDS:

1. The relevant financial factors and the discretionary allowances and adjustments that the Court will allow for a calculation of child support pursuant to the Arizona Child Support Guidelines are set forth in the separately filed Child Support Worksheets, which the Court incorporates and adopts as its findings with respect to child support.

2. No deviation is appropriate regarding the obligation to pay child support.

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IT IS ORDERED:

1. Father shall pay to Mother for child support the sum of \$ 685.00 per month, payable by Wage Assignment through the Support Payment Clearinghouse on the 1st day of each month effective November 1, 2010. That means that Father owes Mother \$6,850.00 through August 1, 2011. To the extent that Father has, to date, paid less than what is required by this Order, he shall pay the unpaid amount at the rate of \$380.56 per month beginning September 1, 2011, until paid in full. In other words, effective September 1, 2011, Father's monthly child support obligation becomes \$1,065.56

An Electronic Order of Assignment will be initiated by the above-named Clerk.

2. At any time that an Order of Assignment is not paying the child support obligation in full, Father shall make full and timely payments directly to the Support Payment Clearinghouse in accordance with the "Instructions for Making Support Payments through the Clearinghouse."

3. All payments shall be made through the Support Clearinghouse by an automatic Order of Assignment issued this date. Father is advised that until such time as the Order of Assignment becomes effective, Father has an affirmative obligation to pay the child support directly to the Support Clearinghouse.

4. All obligations for child support for each child shall terminate upon a finding of this Court that the child has reached the age of 18 years, or is otherwise emancipated. If any child reaches the age of 18 years while attending high school, support shall continue to be provided during the period in which that child continues to be enrolled in high school but only until the child reaches 19 years of age. Support for special needs children may continue past the age of 18 based on a finding of this Court. Provisions for health insurance and non-insured health expenses for the children, as provided for below, shall be deemed to be additional child support and shall be enforceable as such.

5. Pursuant to A.R.S. § 25-503(I), the right of a parent, guardian or custodian to receive child support payments as provided in this Order vests as each installment falls due. Each vested child support installment is enforceable as a final judgment by operation of law.

6. Caution: Payment of child support is not an all or nothing proposition. In other words, if in any month, Father is unable to pay the entire amount owed, that does not excuse him from paying anything. Failure to pay at least something each month could cause the Court to find Father in contempt and order him arrested.

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Exchange of Information.

IT IS ORDERED:

1. The parties shall exchange income information every 24 months. Such financial information shall include, but not be limited to: personal tax returns with all schedules, affidavits of financial information, earning statements and other such documentation necessary to establish or prove the income of either party. In addition, at the time of the exchange of financial information, the parties shall also exchange residential addresses and the names and addresses of their respective employers.

2. The information exchanged may not be used for any purpose other than this case. It may not be disclosed in any way to any person other than to a party's attorneys and those persons who work for or who have been retained by the attorneys to assist in this matter. The party to whom such information is provided is responsible for complying with the requirements of this paragraph, and any failure to do so (i.e., any breach of confidentiality) may subject that party to a financial penalty.

Tax Exemption for Dependents.

IT IS ORDERED that, until Father has paid all child support required to be paid by this Judgment, Mother may claim the child as a dependent on her federal, state, and any other tax returns each year. At such time Father owes no child support, he may claim the child as a dependent on his tax returns in even numbered years and Mother may claim the child in odd-numbered years.

Note that whether a year is odd or even is determined by the year for which taxes are being calculated and not the year in which the return is filed. For example, in 2011, the parties will be filing tax returns for 2010: because 2010 is an even-numbered year, Father will receive the benefit of the tax deduction for the child.

IT IS FURTHER ORDERED:

1. If, at the end of any calendar year, Father is not current in the total Court-ordered child support obligation for that calendar year, and/or has not made all payments due in any previous year, and/or has not paid all Court-ordered arrearage payments due during that calendar year, then Mother also will be entitled to the tax deduction for the child, and Father will be entitled to no tax exemption until he owes no child support. In other words, Father may not have the benefit of any tax exemption or deduction for any child unless, by the end of the calendar year for which he wishes to claim the deduction or exemption, he owes no child support for that year or for any previous year.

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2. Notwithstanding what is said in the preceding paragraphs, if in any year, the parent who is entitled to the dependency deduction or exemption will not benefit from it because his or her income is not sufficient to result in a tax benefit, then that parent must notify the other parent and that other parent that benefit for that year. The purpose of this requirement is so that no child deduction or exemption goes unused in any year.

Medical, Dental and Vision Insurance.

IT IS ORDERED:

1. Mother shall provide medical, dental, and vision insurance for the benefit of the parties' minor child, and shall provide an insurance card and claim filing information/forms to Father. All medical, dental, vision, and orthodontia expenses incurred for the health and protection of the child not covered by insurance shall be paid 50 percent by Father and 50 percent by Mother.

2. With regard to uninsured or unreimbursed medical, dental, and vision expenses, unless there is a compelling excuse, any request by a parent for payment or reimbursement must be provided to the other parent within 180 days after the date the services occur. The parent responsible for payment or reimbursement must pay his or her share, as ordered by the Court, or make acceptable payment arrangements with the provider or person entitled to reimbursement within 30 days after receipt of the request.

3. Both parents should use their best efforts to obtain services that are covered by the insurance.

IT IS FURTHER ORDERED signing this minute entry as a formal Order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

/ s / HONORABLE DOUGLAS GERLACH

JUDGE OF THE SUPERIOR COURT

FILED: Child Support Worksheet

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.